

MONTANA LEGISLATIVE HISTORY

Chapter 377 19 87

Bill H 706 S _____ Original bill & history C

H. Committee on Taxation

Hearing Date(s) Mar 02 ☒ C

Mar 08 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Mar 08 ☒ C

S. Committee on Taxation

Hearing Date(s) Mar 21 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Mar 21 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

REPORT: 4/1/83, DO PASS, AS AMENDED
2ND READING: 04/06/83, DO PASS AYES: 51; NAYS: 46
3RD READING: 04/08/83, DO NOT PASS AYES: 49; NAYS: 49
BILL KILLED

705 -- SPAETH, ADDY, RAMIREZ, ET AL. -- REDEFINING FINAL SALARY FOR FUTURE MEMBERS
OF THE JUDGES' RETIREMENT SYSTEM; PROVIDING THAT A JUDGE ELECTED OR APPOINTED TO
OFFICE ON OR AFTER JULY 1, 1983, WHO RETIRES INVOLUNTARILY BEFORE AGE 65 CANNOT
RECEIVE FULL STATE RETIREMENT BENEFITS
BY REQUEST OF: THE PUBLIC EMPLOYEES' RETIREMENT DIVISION

INTRODUCED: 02/10/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/10/83
HEARING: 2/15/83
REPORT: 02/17/83, DO PASS, AS AMENDED
2ND READING: 02/19/83, DO PASS AYES: 59; NAYS: 32
3RD READING: 02/22/83, DO PASS AYES: 75; NAYS: 24

TRANSMITTED TO SENATE: 2/22/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/16/83
REPORT: 03/22/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/25/83 AYES: 48; NAYS: 1
ON MOTION, 3/25/83, THAT THE BILL BE SEGREGATED FROM THE COMMITTEE OF THE WHOLE
REPORT. MOTION PASSED UNANIMOUSLY.
2ND READING: 03/26/83, BE CONCURRED IN, AS AMENDED AYES: 33; NAYS: 11
3RD READING: 03/28/83 AYES: 42; NAYS: 5

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/04/83, BE CONCURRED IN AYES: 44; NAYS: 42
3RD READING: 04/05/83, BE CONCURRED IN AYES: 75; NAYS: 24

TRANSMITTED TO GOVERNOR: 04/13/83
SIGNED: 04/15/83, CHAPTER 524

706 -- ASAY, PAVLOVICH, DEVLIN, ET AL. -- EXCLUDING CERTAIN ROYALTIES FROM THE
DEFINITION OF CONTRACT SALES PRICE OF COAL; AMENDING

INTRODUCED: 02/10/83
REFERRED TO COMMITTEE ON TAXATION: 02/10/83
HEARING: 3/2/83
REPORT: 03/02/83, DO PASS, AS AMENDED
REREFERRED TO COMMITTEE ON TAXATION: 03/05/83
REPORT: 03/09/83, DO PASS, AS AMENDED
2ND READING: 03/11/83, DO PASS AYES: 83; NAYS: 12
3RD READING: 03/14/83, DO PASS AYES: 92; NAYS: 7

TRANSMITTED TO SENATE: 3/14/83
REFERRED TO COMMITTEE ON TAXATION: 03/15/83
HEARING: 3/21/83
REPORT: 03/21/83, BE CONCURRED IN
2ND READING: 03/23/83 AYES: 48; NAYS: 02
3RD READING: 03/25/83 AYES: 45; NAYS: 4

RETURNED TO HOUSE: 03/25/83

TRANSMITTED TO GOVERNOR: 03/31/83

SIGNED: 04/05/83, CHAPTER 377

HB 707 -- RAMIREZ, HAGER, OCHSNER, ET AL. -- TO APPROPRIATE FUNDS TO THE DEPARTMENT OF INSTITUTIONS TO CONVERT THE GAS-FIRED HEATING PLANT AT THE PINE HILLS SCHOOL TO A COAL-FIRED PLANT.

INTRODUCED: 02/10/83

REFERRED TO COMMITTEE ON APPROPRIATIONS: 02/10/83

HEARING: 4/13/83

REPORT: 04/13/83, DO PASS, AS AMENDED

2ND READING: 04/14/83, DO NOT PASS AYES: 58; NAYS: 36

BILL KILLED

HB 708 -- QUILICI, STIMATZ, R. MANNING, ET AL. -- TO ESTABLISH STATUTORY PROVISIONS RELATING TO THE LOW-INCOME ENERGY ASSISTANCE PROGRAM; TO PROVIDE THAT THE LOW-INCOME ENERGY ASSISTANCE PROGRAM; AND THE HOME WEATHERIZATION PROGRAM BE ADMINISTERED BY COMMUNITY NONPROFIT ENTITIES REPRESENTING ONE OR MORE OF THE GOVERNOR'S SUBSTATE PLANNING DISTRICTS; AMENDING

INTRODUCED: 02/10/83

REFERRED TO COMMITTEE ON HUMAN SERVICES: 02/10/83

HEARING: 2/18/83

REPORT: 02/21/83, DO PASS, AS AMENDED

2ND READING: 02/22/83, DO PASS AYES: 82; NAYS: 17

3RD READING: 02/23/83, DO PASS AYES: 77; NAYS: 16

TRANSMITTED TO SENATE: 2/23/83

REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 2/23/83

HEARING: 3/16/83

REPORT: 3/24/83, BE NOT CONCURRED IN, AS AMENDED

BILL KILLED: 3/24/83

HB 709 -- NORDTVEIT -- ALLOWING FOR THE NONRECOGNITION OF CAPITAL GAIN WHEN PROCEEDS OF SALE OR EXCHANGE ARE INVESTED IN A MONTANA ENTERPRISE; ALLOWING FOR THE TAX ON THE GAIN AT A LATER DATE; AMENDING

INTRODUCED: 02/10/83

REFERRED TO COMMITTEE ON TAXATION: 02/10/83

REFERRED TO COMMITTEE ON APPROPRIATIONS: 02/12/83

HEARING: 3/15/83

DIED IN COMMITTEE

HB 710 -- KITSELMAN, CRIPPEN, FABREGA, ET AL. -- TO GENERALLY REVISE THE LAW RELATING TO NONRESIDENT INSURANCE AGENTS AND POLICIES WRITTEN THROUGH SUCH AGENTS PROVIDING FOR RECIPROCAL REQUIREMENTS FOR COUNTERSIGNATURE OF RESIDENT INSURANCE AGENTS ON POLICIES OF INSURANCE WRITTEN THROUGH NONRESIDENT AGENTS; REQUIRING THE FILING OF AN ANNUAL BUSINESS REPORT; IMPOSING CERTAIN MONTANA TAXES; AND PROVIDING PENALTIES FOR VIOLATIONS; AMENDING

INTRODUCED: 02/10/83

REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/10/83

HEARING: 2/16/83

REPORT: 02/16/83, DO PASS, AS AMENDED

2ND READING: 02/18/83, DO PASS AYES: 78; NAYS: 4

3RD READING: 02/22/83, DO PASS AYES: 94; NAYS: 5

TRANSMITTED TO SENATE: 2/22/83

HOUSE BILL 706

REPRESENTATIVE TOM ASAY, District 50, chief sponsor of the bill, said the purpose of HB 706 is to take a step towards stopping the decline of coal sales in Montana. We want to make coal sales more competitive. House Bill 706 is an act excluding certain royalties from the definition of contract sales price of coal.

REPRESENTATIVE ASAY explained royalty taxes. Royalty taxes are those taxes levied on coal when a lease is given on federal, state, or private land. There is a 12.5% royalty tax on the selling price of coal. The royalty tax has been increased from 15-20¢ per ton of coal to \$1.25-\$1.35 per ton of coal. He said it is obvious what that increase is doing to the competitive price of Montana's coal.

REPRESENTATIVE ASAY said Wyoming does not figure the royalty tax into the price of the coal when figuring the severance tax.

REPRESENTATIVE ASAY said coal production decreased last year by about 5.5 million tons. There were 250 mining jobs lost last year. He said the fiscal impact of HB 706 will be far less than the money received from royalties.

REPRESENTATIVE ASAY passed out copies of amendments to HB 706. (See EXHIBIT 1.) He said there will be no decrease in the severance tax now being collected, there will be a slight increase.

Proponents

MARTIN WHITE, President of Western Energy, said there is a challenge to the state of Montana with the potential loss of Montana coal production and the resultant coal severance tax revenue.

MR. WHITE went over Wyoming's competitive advantages over Montana:

1. Thicker seams
2. Compliance Coal
3. Rail Freight Competitive/3 Railroads
4. Lower reclamation costs
5. Lower tax
6. Better method of calculating tax

MR. WHITE said the federal coal leasing act was amended in 1976 which changed the royalty tax from a fixed ¢/ton to 12.5% of the price.

MR. WHITE said the interaction of the royalty and severance taxes makes Montana coal incompetitive. Montana will lose the market share. There have been 360 primary mining jobs lost since 1980. The solution is to change Montana legislation to remove the royalty tax from the severance tax calculation. The change in the calculation will protect Montana coal production, mining jobs and severance tax revenue.

MR. WHITE asked for a favorable recommendation on HB 706 from this committee. (See EXHIBIT 2.)

JIM MOCKLER, Executive Director of the Montana Coal Council stressed several points. The production of coal went down by 5.5 million tons last year. House Bill 706 will send a signal and attitude to customers that Montana is interested and wants to produce coal and have the customers' business.

GARY LANGLEY, Executive Director of the Montana Mining Association, said the mining industry is just as basic to Montana as agriculture is. Mining is not doing too well in Montana at this time. Any more cuts cannot be tolerated. If this bill is passed, you will see, in the long run, an increase in employment.

BILL OLSON, representing the Montana Contractors Association, said HB 706 is aimed at making coal competitive in the market place. He urged a do pass on HB 706.

MIKE FITZGERALD, President of the Montana Trade Association, passed out copies of his testimony. (See EXHIBIT 3.) He went over that handout with the committee members.

MR. FITZGERALD said from the outset he has supported I 95 and related development programs. He voted for the initiative and served on the Governor's Development Finance Committee that drafted the package of bills for implementation of I 95 and the Build Montana Program. He supported the concept of using tax revenues from non-renewable resource development to diversify Montana's economy. He said we must maintain and expand resource development. Montana coal producers are the benefactors of I 95 and many other state government programs. I 95 and related small business development programs are dependent upon continued and expanded coal production in Montana. Wyoming is an example of what is possible if Montana evolves an attitude of helping our coal industry. Mr. Fitzgerald asked for a do pass on HB 706.

DAVE LEWIS, Director of the Office of Budget and Program Planning, said HB 706, as amended, phases out the State Coal Severance Tax on future increases in federal, state and Indian reservation coal royalties. This will make our treatment of these royalties, for severance tax purposes, the same as in Wyoming.

The Governor was approached by the coal industry and asked to support the bill in its original form. Given our current fiscal condition, he felt that the original bill was "too much too soon". However, the amended bill will have a limited impact on the general fund in 1984 and 1985 and is acceptable. The administration does feel that the tax increase, which would take place if this amended bill were not approved, would be the wrong signal to the industry. We want to maintain our competitive relationship with Wyoming coal and increase Montana employment in the coal industry.

Eliminating the state severance tax on federal royalties, or a tax on a tax, is a positive signal to Congress that we are willing to be reasonable with our coal tax. There has been interest in Congress in reducing the state portion of federal royalties to 35% rather than the current 50%. One reason for this is that state taxes on federal royalties will increase when these royalties are increased.

Future legislatures will be able to evaluate this tax change to determine if it has helped to maintain and increase Montana production.

Mr. Lewis said he wants to stress that the effect of the amended HB 706 is to phase out a state tax increase that would occur when federal royalties are increased. At the end of the phase out period, our tax would be exactly at the current level. There will be no decrease from current tax levels. (See EXHIBIT 4.)

JIM MAYES, representing Operating Engineers Local #400, AFL-CIO, testified in support of HB 706, as amended. This bill would exclude certain royalties from the definition of contract sales price of coal. Mr. Mayes said they could not support the bill as it was originally written because the fiscal impact on state revenues was far too large. Because of the current economic recession and large reductions in federal aid, state government is already feeling a financial crunch. There have already been reductions in force and reductions in services. Further cuts, had this bill passed in original form, would probably have been necessary, causing an adverse impact on our state's citizens. However, as amended, the bill would not have a severe impact on state revenues and would assist coal producers. We are hopeful that this would have a positive effect on coal production and jobs, without causing undue hardship for state government. The amended bill maintains a good balance between state revenue needs and phasing out the coal severance tax on increased federal coal royalties. He asked for a favorable vote on HB 706, as amended. (See EXHIBIT 5.)

There were no opponents to HB 706.

REPRESENTATIVE ASAY, in closing, said there may be some question

as to whether this bill is considered an appropriations bill. If so, we need to get this bill out of the House by Friday. He asked if this committee could take executive action on HB 706 today.

REPRESENTATIVE BERTELSEN asked what percentage of the royalties paid are paid to federal and state compared to private. Mr. Mockler said about 80% of royalties paid are paid to federal and state. Mr. White said the percentages vary with his business but last year it was about 50-50.

REPRESENTATIVE SWITZER asked Mr. Lewis if his strong support of HB 706 is because of the jobs and money. Mr. Lewis said he wants to maintain our position with Wyoming and also maintain and increase employment.

The hearing on HB 706 was closed.

HOUSE BILL 735

REPRESENTATIVE NORMAN WALLIN, District 76, passed out copies of proposed amendments to HB 735. (See EXHIBIT 6.)

REPRESENTATIVE WALLIN said HB 735 is a bill to close loopholes that exist in present tax laws. House Bill 735 is an act to generally revise property tax exemptions; providing that the county tax appeal board may hear appeals related to exempt property.

REPRESENTATIVE WALLIN said HB 735 addresses the following:

1. Church owned residences are not assessed. Under HB 735 a modest tax would be imposed, taxing those residences as class four property
2. Property used exclusively for agricultural and horticultural societies would be placed on the tax roles.
3. Facilities owned and operated by organizations for the care of the retired or aged or chronically ill, which are not operated for gain or profit would also be taxed.
4. County tax appeal boards, under federal law, hear only cases relating to taxpayer appeals relating to their assessment. Exemptions are heard in Helena by the State Tax Appeal Board. Because exemptions granted in Helena often do not reflect knowledge of the local situations, some exemptions have been granted which would have been better had they not been granted. House Bill 735 says hearings for exemptions should be heard first by the county

million, \$4 million, \$6 million, etc., from the highways program. She said the bill may not pass if you do not have a limit on the subsidy because of the concern over the highways.

REPRESENTATIVE REAM asked why the incentive should be closed out after 1989. Ms. Feaver said if the market share should go over 18%, it would be hard to say this would be a "fledgling industry".

The hearing was closed on HB 780.

CHAIRMAN YARDLEY called the meeting into Executive Session at this time.

EXECUTIVE SESSION

House Bill 706

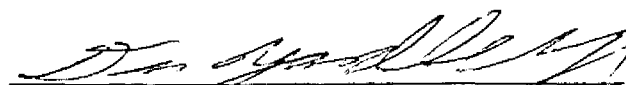
REPRESENTATIVE ASAY moved HB 706 DO PASS AS AMENDED.

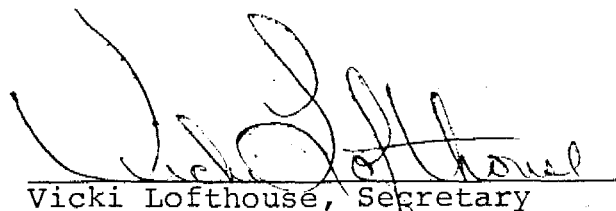
REPRESENTATIVE ASAY moved the proposed amendments to HB 706.

The motion was voted on and PASSED unanimously. Representatives Keenan, Vinger and Harrington were not present during the vote.

The motion that HB 706 DO PASS AS AMENDED was voted on and PASSED unanimously. Representatives Keenan, Vinger and Harrington were not present during the vote.

The meeting was adjourned at 10:35 a.m.


DAN YARDLEY, Chairman


Vicki Lofthouse, Secretary

HOUSE BILL 706 - INTRODUCED BILL

1. Page 1, lines 14 and 15.
Following: "taxes"
Strike: "and royalites"

2. Page 1, line 16.
Following: "15-35-107"
Add: "Contract sales price includes all royalties paid on production, no matter how such royalties are calculated. However, with respect to state, federal, and Indian royalties, the contract sales price shall include only:
 - (a) 15 cents per ton, plus 75% of the difference between 15 cents per ton and the amount of such royalties actually paid, beginning July 1, 1984;
 - (b) 15 cents per ton, plus 50% of the difference between 15 cents per ton and the amount of such royalties actually paid, beginning July 1, 1985;
 - (c) 15 cents per ton, plus 25% of the difference between 15 cents per ton and the amount of such royalties actually paid, beginning July 1, 1986;
 - (d) 15 cents per ton beginning July 1, 1987."

3. Page 1, lines 22 - 24.
Strike: all of subsection (5).
Re-number: subsequent subsections.

EXHIBIT 2
3-2-83

ISSUE PAPER

MONTANA SEVERANCE TAX & COAL ROYALTY INTERACTION

WESTERN ENERGY COMPANY

Revenues

Montana faces a serious threat to its Coal Tax Revenue due to the declining production rate of Montana coal compared to Wyoming coal.

Wyoming's coal has many advantages. Their taxing picture and the method used to calculate their taxes is better than Montana's. Their coal occurs in seams thicker than those in Montana. The environmentally acceptable quality of their coal is generally better than Montana's. More rail freight competition out of Wyoming causes lower freight rates and they are closer to most markets. These advantages are contributing to greater levels of production in Wyoming.

In 1971, Montana produced 7.3 million tons of coal and Wyoming produced 8.0 million. In 1980, Montana produced 30.0 million tons and Wyoming produced 94 million tons. In 1982, Montana produced 27.8 million tons and Wyoming produced 106 million tons. Based on available projections, by 1987, Montana's production will be 40.6 million tons versus Wyoming's 153 million tons.

Montana can help the coal industry and benefit the State by changing the method used to calculate the Coal Severance Tax to eliminate the royalty from the calculation.

When the 1975 Montana Legislature passed a 30 percent severance tax, royalties paid on coal generally ranged from 15 to 20 cents per ton. At that time, the Severance Tax, Royalties and Production Taxes did not interact mathematically to inflate the price. In 1976, however, the Federal Coal Lease Amendments Act of

1976 changed the fundamental structure of coal royalties in the West by providing that no surface mined coal would be leased for less than 12½ percent royalty paid on the gross value of the coal.

The example on the following page compares the price of coal using a flat fee royalty as it was in 1975 when the Severance Tax was passed and the price using a 12½ percent royalty as mandated by the 1976 Leasing Amendments Act. Also, it compares the price of coal as calculated using the new formula as prescribed by the proposed legislation.

The problem is created by the fact that the Severance Tax is levered up because it applies to the Federal Royalty costs on a percentage basis, while the percentage royalty applies to all elements of the price including severance taxes. This was not the case prior to the Federal Government passing a percentage royalty rather than a flat fee royalty rate. Wyoming, in contrast, allows a deduction for Federal, State, and Indian Royalties to ensure that an artificial price increase does not occur. The most serious implication for Montana will be the continuing loss of market share to Wyoming coal producers. The loss of market share can occur in at least two ways:

- (1) Reduce the coal taken under existing contracts to the contract minimum.

Most of the coal in Montana is produced under long-term contracts which typically contain a maximum and minimum tonnage provision. For instance, our contract with Northern States Power Company has a maximum of 5.5 million tons and a minimum of 2.5 million. Northern States Power can drop to the contract minimum of 2.5 million tons with no more than 30 days notice. All of our contracts have similar maximum and minimum provisions. Conceivably, Western Energy Company's production could be reduced by 8 million tons on an annual basis because of the difference between our present projected production level and the contract minimums.

<u>PRICE ELEMENTS</u>	<u>FLAT FEE ROYALTY \$.15/TON</u>	<u>EXISTING METHOD 12½% ROYALTY</u>	<u>PROPOSED METHOD 12½% ROYALTY</u>
Operating Cost and Profit	\$6.32	\$ 6.32	\$ 6.32
Royalty	<u>.15</u>	<u>1.40</u>	<u>1.34</u>
Contract Sale Price	\$6.47	<u>7.72</u>	<u>7.66</u>
State Prod. Taxes (1)*	2.28	2.71 ³	2.28
Fed. Reclamation Fee	<u>.35</u>	<u>.35</u>	<u>.35</u>
Subtotal	\$9.10	\$10.78	\$10.29
Black Lung @ 4%	<u>.36</u>	<u>.43</u>	<u>.41</u>
TOTAL PRICE	\$9.46	\$11.21	\$10.70

*(1) Assumes Montana Production Taxes:

Severance @	30.00%
Gross Proceeds @	4.62%
Resource Indemnity Trust Tax @	<u>.50%</u>
TOTAL	35.12%

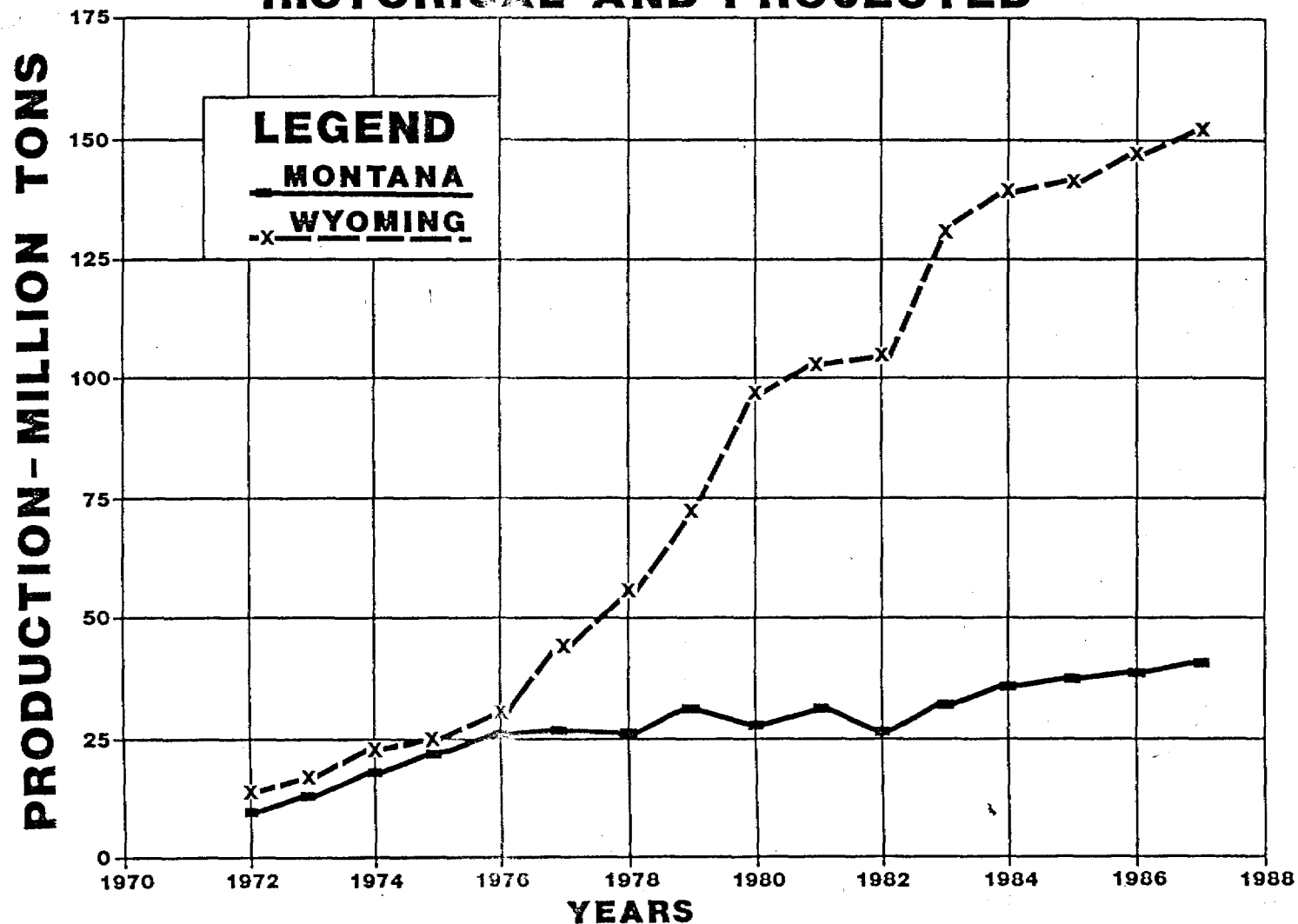
(2) Do not enter into new contracts with Montana producers.

To our knowledge, there have been no new major long-term contracts for Montana coal signed since 1975.

Jobs

Earlier this month when Anaconda Company announced the closing of the Butte pit and the fact that there would be 700 people laid off, every newspaper in the State carried the article. Since 1979, Montana has lost 360 primary jobs in the coal fields and using a standard multiplier of 3 to 1 for secondary jobs, another 1,080 jobs have been lost in support businesses. There has been no outcry about these jobs. The jobs lost to date are just the beginning. The following charts and graphs explain the impact of the proposed change.

MT WY COAL PRODUCTION HISTORICAL AND PROJECTED

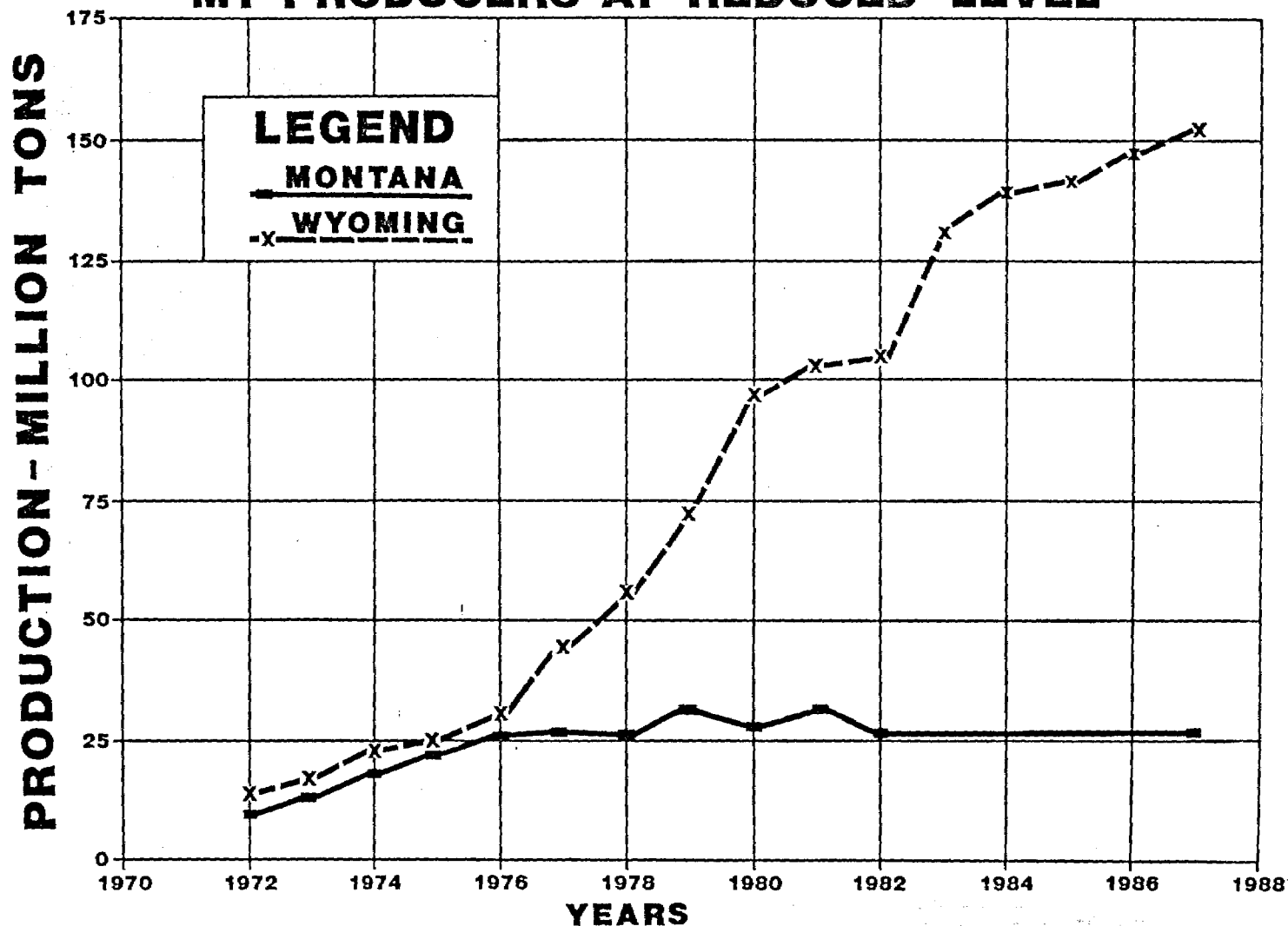


(1) Wyoming Production estimated by Wyoming Geological Survey

(2) Montana Production from producer estimates supplied to the Montana Coal Council

MT WY COAL PRODUCTION

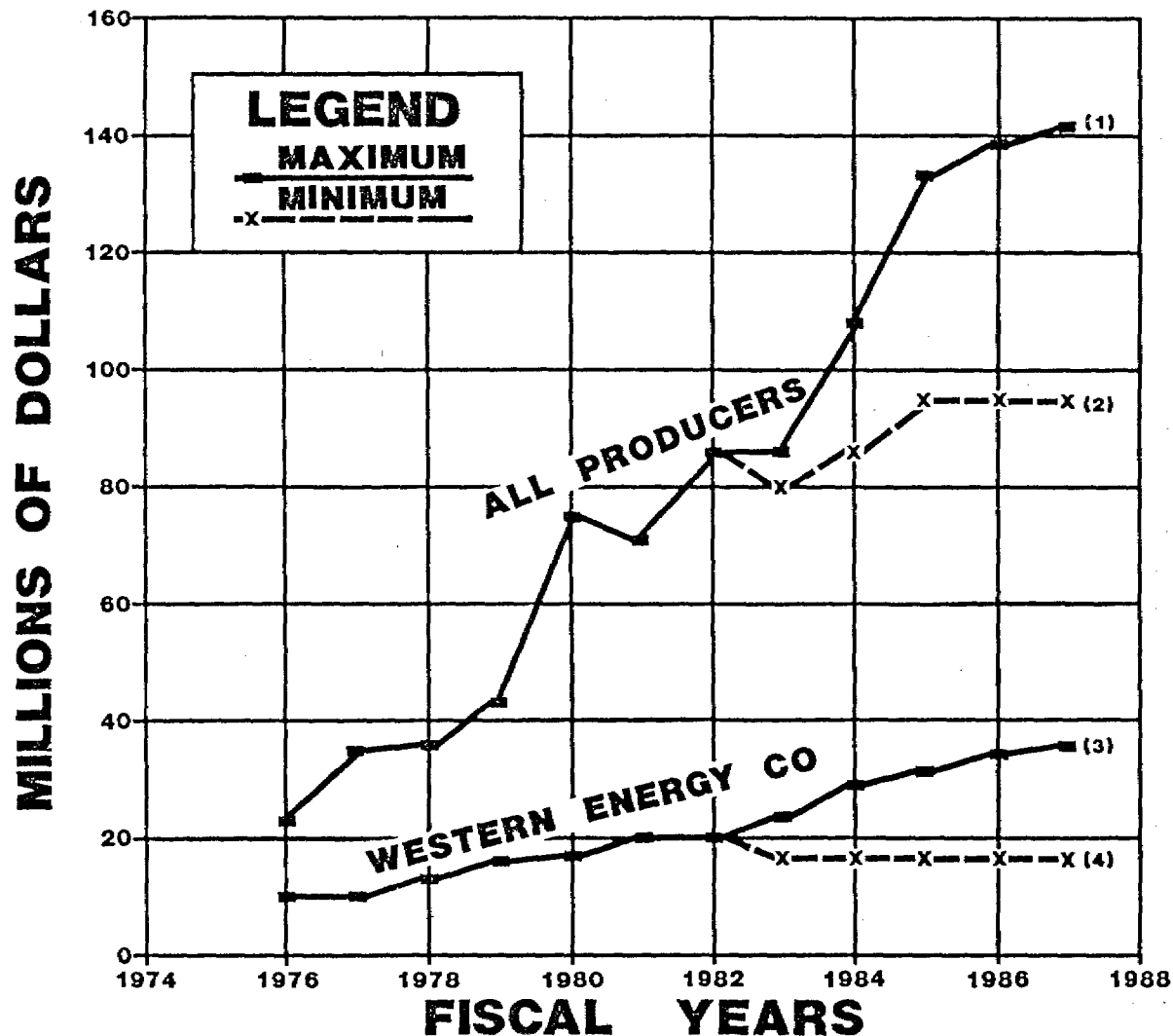
MT PRODUCERS AT REDUCED LEVEL



Wyoming production estimated by Wyoming Geological Survey

Western Energy forced to contract minimums - c her Montana Producers at 82 level

COAL SEVERANCE TAX REVENUES



(1) Budget Office estimates FY83,84,85 / FY86,87 projected at FY85 rates.

(2) Assumes Western forced to minimums and other producers at 82 levels, severance tax collections uses average severance tax, Budget estimates.

(3) Assumes Western at projected production levels.

(4) Assumes Western at Minimum Levels.

CHART 3

MONTANA COAL PRODUCERS

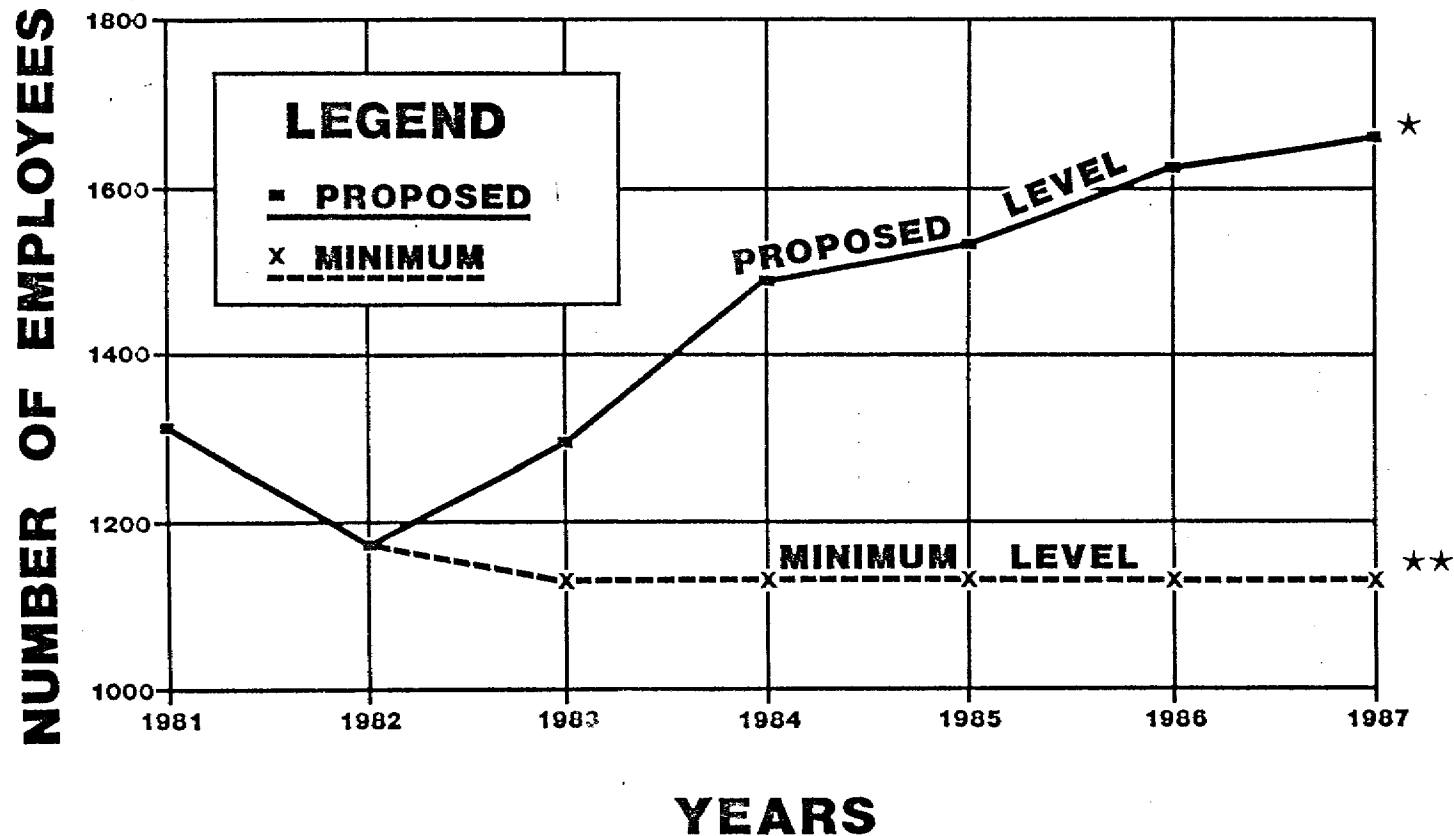
Projected and actual receipts from Federal Royalties:

	<u>1982</u>	<u>1983</u>	<u>1984</u>
Peabody	\$ 575,000	\$ 630,000	\$ 630,000
Nerco	400,000	861,000	861,000
Western Energy	7,700,000	5,953,000	6,905,000
Decker	918,227	1,881,677	11,629,761
Knife River	<u>200,000</u>	<u>200,000</u>	<u>200,000</u>
Total	\$9,793,227	\$9,525,667	\$20,225,761
State's Share of Federal Royalty	\$4,896,613	\$4,762,833	\$10,112,880

Projected and actual receipts from State Royalties:

	<u>1982</u>	<u>1983</u>	<u>1984</u>
Peabody	\$ 0	\$ 0	\$ 0
Nerco	0	0	0
Western Energy	0	0	360,000
Decker	49,631	623,000	5,500,000
Knife River	0	0	0
Westmoreland	<u>41,261</u>	<u>145,250</u>	<u>145,250</u>
State Royalties	\$ 90,892	\$ 768,250	\$ 6,005,250
Total State & Fed. Royalties	\$4,987,505	\$5,531,083	\$16,118,130

MT COAL MINE EMPLOYMENT

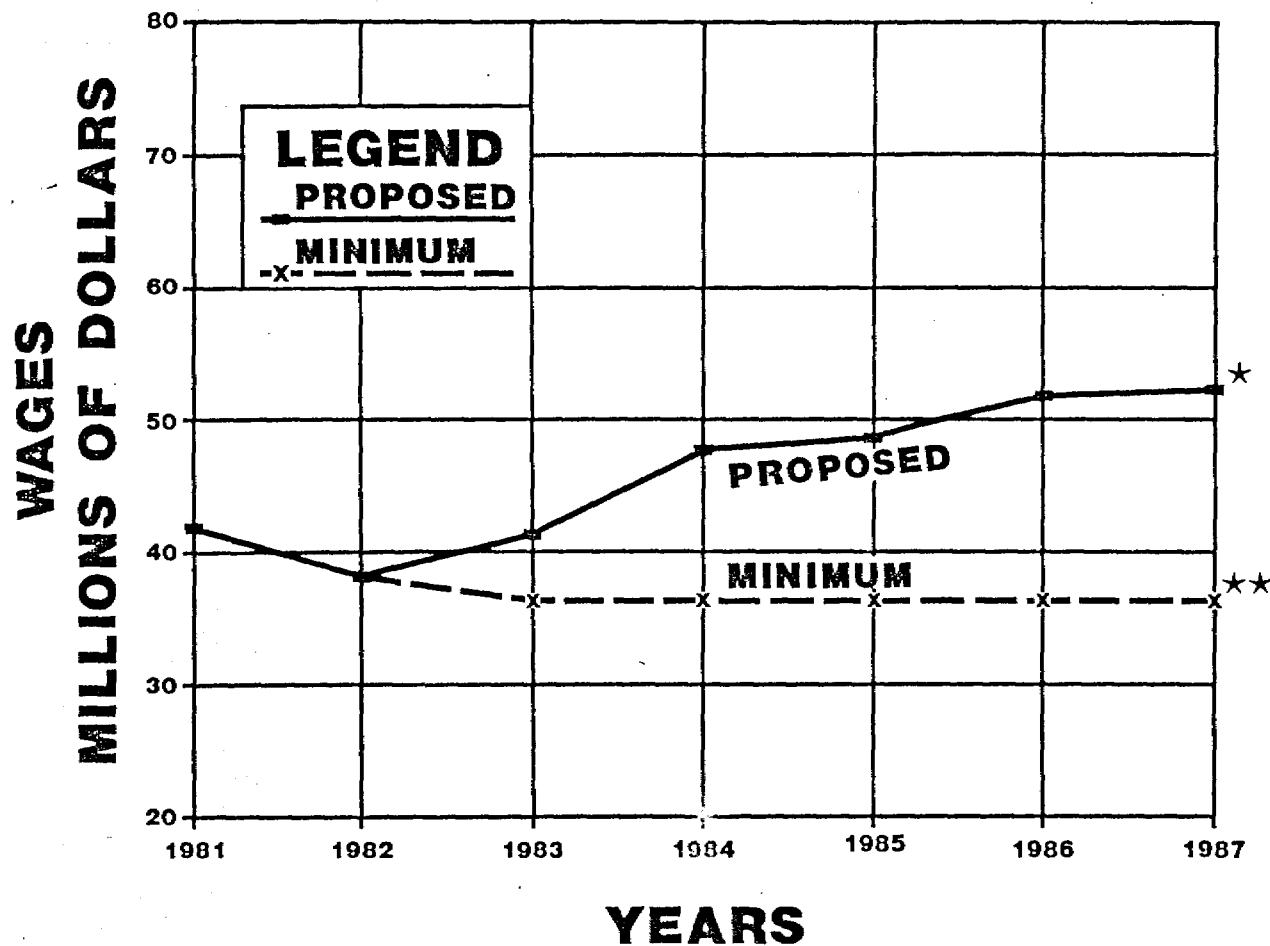


★ 1981 and 1982 actual employment 1983-1987 projected at 24,460 tons/man/year against producers production estimates

★★ 1983-1987 at 27.5 million tons/year - WECO forced to minimum and other producers at 1982 level

CHART 4

PROJECTED COAL MINE WAGES



★ 1981 figure from Mt. Coal Council 1982 - 1987 assumes \$32,000/year/worker X anticipated employment.

★★ 1983 - 1987 assumes Western forced to minimums other producers at 82 level number of workers X \$32,000.

CHART 5

TESTIMONY

IN SUPPORT OF HB 706

FROM
MIKE FITZGERALD
PRESIDENT
MONTANA TRADE COMMISSION
SUITE 612 - POWER BUILDING
HELENA, MONTANA

Before the House Taxation Committee
March 2, 1983
Helena, Montana

WORLD COAL RESERVES*

Total Estimated	11,500 Billion Metric Tons
Measured Reserves	1,300 Billion Metric Tons
Economically Recoverable	740 Billion Metric Tons
(High Heating Value Coal Reserves)	600 Billion Metric Tons ¹

The following five regions have 95% of these known reserves:

North America	@ 31%	229.40 Billion Metric Tons
USSR And Satellites	@ 26%	192.40 Billion Metric Tons
Western Europe	@ 17%	125.80 Billion Metric Tons
China	@ 15%	111.00 Billion Metric Tons
Australia	@ 6%	<u>44.40 Billion Metric Tons</u>
Total	@	<u>95% or @ 703 Billion Metric Tons</u>

*World Coal Production; Scientific American 1-79; Volume 240, Number 1; PP. 38-47.

¹740 Billion Metric Tons Adjusted for Inferior Heating Quality Coal to 600 Billion Metric Tons.

ECONOMICALLY RECOVERABLE COAL RESERVES
IN SELECTED WESTERN STATES*

STATE	ANTHRACITE (000 Tons)	BITUMINOUS AND LIGNITE (000 Tons)	TOTAL (000 Tons)
Arizona	-	350,000	350,000
Colorado	27,700	14,841,500	14,869,200
Montana	-	108,396,200	108,396,200
New Mexico	2,300	4,392,500	4,394,800
North Dakota	-	16,003,000	16,003,000
South Dakota	-	428,000	428,000
Texas	-	3,271,900	3,271,900
Utah	-	4,420,500	4,420,500
Washington	-	1,954,000	1,954,000
Wyoming	-	53,336,100	53,336,100
WESTERN STATES TOTAL	30,000	207,393,700	207,423,700

*Communication with George Krimpasky, United States Bureau of Mines, Helena, Montana (1974 Data).

MONTANA COAL PRODUCTION

<u>MINES</u>	<u>1979 (Tons)</u>	<u>1981</u>
Coal Creek	63,858	64,142
Decker East	5,492,702	5,350,113
Decker West	5,422,588	5,277,648
Knife River	297,694	204,492
Western Energy	10,220,911	10,352,966
PM	11,081	7,404
Westmoreland	4,974,984	4,450,296
Spring Creek	94,368	4,368,885
Peabody	2,909,320	3,193,570
Beartooth	7,321	Closed
Divide	<u>8,245</u>	<u>8,165</u>
Total 1979 Production	<u>29,503,072 (1)</u>	<u>33,277,681 (2)</u>

Source: State Department Of Lands (1)
By WESCO Resources.

Montana Coal Council (2)

PROJECTED/ADJUSTED

Montana Coal Production (1979-2000)

(Million Tons)

<u>1970</u>	<u>1975</u>	<u>1980</u>	<u>1990</u>	<u>2000</u>
3.5	22.1	36.4	128.5(1)	270.1(1)
			280 (2)	

1981 Adjusted Estimates for the Year 2000

100 Million Tons Annually
Total Estimated Montana Coal Production

Source: (1) Montana State Department of Lands.
(2) U.S. Department of Energy.

- Montana's 1982 coal production was 32,160,075 tons. 1982 coal severance taxes totaled \$86,186,845.61.
- Wyoming's 1982 coal production was 104 million tons. Wyoming 1982 coal severance taxes totaled \$152,800,324.
- Wyoming's coal production is projected to be 128 million tons annually by 1986.
- Montana's coal production will not likely reach 50 million tons annually by 1990. Our coal production might not reach 40 million tons annually by 1990.

Montana coal producers are competing in the world market with other Rocky Mountain and eastern U.S. producers as well as Canada South Africa, Poland, Australia, the Soviet Union and China in the not too distant future.

To increase sales of Montana's rather low (8,600 BTU) coal, producers must improve the delivered price per million BTU^s.

As an example: \$10.00 Per Ton F.O.B. Mine
 \$20.00 Rail Freight To Customer
 \$30.00 Total Delivered Price

To calculate delivered price per million BTU^s :

$$\begin{aligned} & \$30.00 \quad \text{Delivered price per ton} \\ & \div \frac{2000 \text{ lbs.} \times 8,600 \text{ BTU}}{1000000} \\ & = @ \$1.74 \text{ per million BTU}^s \end{aligned}$$

To increase sales of Montana's coal we must improve the delivered price per million BTU^s.

There are only a few ways this can be done. To be competitive in U.S. and world markets, Montana coal producers will likely have to achieve all of the following:

- Increase the BTU heating value of the coal at the mine by benefaction.
- Create competitive transportation by coal slurry, either water or some other form.
- Improve coal burning technology.
- Lower taxes.

From the outset I have supported I 95 and related development programs. I voted for the initiative and served on the Governor's Development Finance Committee that drafted the package of bills for implementation of I-95 and the Build Montana Program.

I supported the concept of using tax revenues from non-renewable resource development to diversify Montana's economy. However, we must maintain and expand resource development.

Montana coal producers are the benefactors of I 95 and many other state government programs. I 95 and related small business development programs are dependent upon continued and expanded coal production in Montana. Our neighbor, Wyoming, is an example of what is possible if we evolve an attitude of helping our coal industry.

I respectfully recommend that you pass HB 706.

TESTIMONY ON HOUSE BILL 706

House Bill 706 as amended, phases out the State Coal Severance Tax on future increases in Federal, State and Indian Reservation Coal Royalties. This will make our treatment of these royalties, for severance tax purposes, the same as in Wyoming.

The Governor was approached by the coal industry and asked to support the bill in its original form. Given our current fiscal condition he felt that the original bill was "too much too soon". However, the amended bill will have a limited impact on the General Fund in 1984 and 1985 and is acceptable. The administration does feel that the tax increase, which would take place if this amended bill were not approved, would be the wrong signal to the industry. We want to maintain our competitive relationship with Wyoming Coal and increase Montana employment in the coal industry.

Eliminating the state severance tax on Federal Royalties, or a tax on a tax, is a positive signal to Congress that we are willing to be reasonable with our coal tax. There has been interest in congress in reducing the state portion of Federal Royalties to 35% rather than the current 50%. One reason for this is that state taxes on Federal Royalties will increase when these royalties are increased.

Future Legislatures will be able to evaluate this tax change to determine if it has helped to maintain and increase Montana production.

I want to stress that the effect of the amended House Bill 706 is to phase out a state tax increase that would occur when Federal Royalties are increased. At the end of the phase out period our tax would be exactly at the current level. There will be no decrease from current tax levels.

Dave Lamm

O B P P

International Union of Operating Engineers

LOCAL 400

Affiliated with AFL-CIO

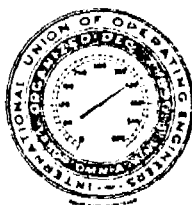
Montana

JOHN SLATTERY
President

D. F. "DAVE" JOHNSTON
Vice President

LOUIS LAYMAN
Treasurer

RALPH REID
Rec. Corres. Secretary



BILL BURLINGAME
Business Manager &
Financial Secretary

HEADQUARTERS
2717 Airport Road
Helena, Montana 59601
Telephone: (406) 342-9

TESTIMONY OF JIM MAYES ON HOUSE BILL 706, BEFORE THE HOUSE TAXATION
COMMITTEE, MARCH 2, 1983

I am Jim Mayes representing Operating Engineers Local #400, AFL-CIO. I am here today to testify in support of House Bill 706, as amended. This bill would exclude certain royalties from the definition of contract sales price of coal.

We could not support the bill as it was originally written because the fiscal impact on state revenues was far too large. Because of the current economic recession and large reductions in federal aid, state government is already feeling a financial crunch. There have already been reductions in force and reductions in services. Further cuts, had this bill passed in original form, would probably have been necessary, causing an adverse impact on our state's citizens.

However, as amended, the bill would not have a severe impact on state revenues and would assist coal producers. We are hopeful that this would have a positive effect on coal production and jobs, without causing undue hardship for state government.

The amended bill maintains a good balance between state revenue needs and phasing out the coal severance tax on increased federal coal royalties.

Please vote in favor of House Bill 706, as amended. Thank you.

[Original had union "bug", which was removed for duplication]

WITNESS STATEMENT

Name William Olson Committee On Taxation
Address Helena, Mt. Date 3/2/83
Representing Mt. Contractors Support ✓
Bill No. HB 706 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Martin A. White Committee On TAXATION
Address 107 E. Granite, Butte Date 3/2/83
Representing Western Energy Co. Support ✓
Bill No. H.B. 706 Oppose _____
Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name James D. Mockler Committee On Tax
Address 2301 Colonial Dr Date 3/2/83
Representing MT Coal Council Support ✓
Bill No. H.B. 706 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITORS' REGISTER

HOUSE

Taxa Tied

COMMITTEE

BILL

HB 706

Date 3/2/83

SPONSOR

Rep Assay

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

~~PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.~~

STANDING COMMITTEE REPORT

Page 1 of 2

March 2,

1993

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 706

First reading copy (White)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING CERTAIN ROYALTIES
FROM THE DEFINITION OF CONTRACT SALES PRICE OF COAL; AMENDING
SECTION 15-35-102, MCA."

Respectfully report as follows: That HOUSE Bill No. 706
be amended as follows:

(See attached sheet)

DOHASSXX

March 2, 1983

1. Page 1, lines 14 and 15.

Following: "taxes"

Strike: "and royalties"

2. Page 1, line 16.

Following: "15-35-107."

Insert: "Contract sales price includes all royalties paid on production, no matter how such royalties are calculated with respect to state, federal, and Indian royalties, the contract sales price includes only:

(a) on and after July 1, 1984 and before July 1, 1985, 15 cents per ton plus 75% of the difference between 15 cents per ton and the amount of such royalties actually paid;

(b) on and after July 1, 1985 and before July 1, 1986, 15 cents per ton plus 50% of the difference between 15 cents per ton and the amount of such royalties actually paid;

(c) on and after July 1, 1986 and before July 1, 1987, 15 cents per ton plus 25% of the difference between 15 cents per ton and the amount of such royalties actually paid; and

(d) on July 1, 1987 and thereafter, 15 cents per ton."

3. Page 1, line 22 through line 24.

Following: line 21

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

AND AS AMENDED
DO PASS

SAN YARDLEY,

Chairman.

the light trucks and cars are assessed both the flat fee and the 1 1/2% new car use tax. If they buy a license for a larger vehicle in March, they pay the new car use tax for ten months, as the expiration date is not staggered but is December 31st of each year. I am not opposing the new car use fee. I simply feel that it should be levied equally on all car and small truck users.

There were no opponents testifying on HB 890.

REPRESENTATIVE HAND, in closing, said there may be some confusion between the present means of assessing in lieu of the flat fee in the second and third years.

The hearing was closed on HB 890.

CHAIRMAN YARDLEY called the meeting into Executive Session at this time.

EXECUTIVE SESSION

House Bill 706

REPRESENTATIVE ASAY said there is a new, amended, fiscal note on this bill. He passed out copies of an explanation of the fiscal note. (See EXHIBIT 4.) He read that handout to the committee.

REPRESENTATIVE NORDTVEDT asked why the statement "This bill would reduce royalty payments" was put on the fiscal note. Mr. Ken Williams, Western Energy Company, said the interaction of the tax and the royalty will reduce the royalty slightly. The actual reduction will be about 5%. The royalty is a percentage of the coal profit. If you reduce the tax, you reduce the royalty.

REPRESENTATIVE ASAY said the amendments were housekeeping amendments only and do not change the substance of the bill.

ELLEN FEAVER, Director of the Department of Revenue, said the Department of Revenue proposed the amendments being offered. In looking at the bill, the bill should be as precise as possible. The amendments specify which quarterly return this would start applying to. The amendments make sure the private royalties were not a part of this bill. The royalty is paid to the government of the United States, the state of Montana, or federally recognized Indian tribes. These amendments specify what is an Indian tribe. These amendments are housekeeping amendments but as far as tax administration goes, they are important.

REPRESENTATIVE ASAY moved the offered amendments to HB 706.

The motion was voted on and PASSED unanimously. Representative Keenan was excused.

REPRESENTATIVE ASAY moved HB 706 DO PASS AS AMENDED.

The motion was voted on and PASSED. All committee members present voted yes except Representative Neuman, who voted no. Representative Keenan was excused.

REPRESENTATIVE NEUMAN took over as chairman of the meeting.

The meeting was called back into regular hearing for HB 665.

HOUSE BILL 665

REPRESENTATIVE DAN YARDLEY, District 74, chief sponsor of HB 665, said HB 665 establishes a Montana Railway Fuel Tax Act, imposing a 6% use tax, creating a special railway facilities account and allocating funds. He said 5 cents of the 6 cent tax goes to a railway improvement account in the earmarked revenue fund to be expended by the Department of Commerce to subsidize rail passenger service in this state and for other essential railway purposes. He said this bill is a companion bill to HB 694, which funds Amtrak in the southern route. (See EXHIBIT 5.)

REPRESENTATIVE YARDLEY passed out copies of the cost of daily service of Amtrak in the southern route. (See EXHIBIT 6.)

REPRESENTATIVE YARDLEY said the fiscal note on HB 665 shows this bill will raise \$3.7 million each year of the biennium.

The leftover 1 cent of the 6 cent tax will go to a farm-to-rail-terminal highway improvement account in the earmarked revenue fund to be expended by the Department of Highways, exclusively for the maintenance, repair and reconstruction of public highways and roads traveled by trucks transporting agricultural products to railway terminal points and for maintenance and improvements on railroad grade crossings, with priority given to highways and roads severely impacted by abandonments of railroad lines.

The main purpose of this bill is to reestablish Amtrak on the southern route in Montana.

REPRESENTATIVE YARDLEY passed out copies of proposed amendments which include provisions that if Amtrak was not constructed in and did not go into operation in Montana, the money would go into the farm terminal, road repair and maintenance account. (See EXHIBIT 7.)

Proponents

TOM RYAN, representing the Montana Senior Citizens Association, said as long as the railroad company retains its land grants, in any form, they should be obligated to serve people. This is an

HOUSE BILL 706 (FISCAL NOTE)

The Fiscal Note for House Bill 706 contains some assumptions that are not readily apparant:

First the fiscal impact for Fiscal Years 85, 86, 87, and 88 assumes that Montana producers will meet their tonnage projections. FY85 production is anticipated to be 40 million tons, an increase of 12.2 million tons over 1982 production of 27.8 tons. Slightly less than half of this 12.2 million ton increase anticipates the operation of Colstrip Units 3 & 4 while the remaining 6.6 million tons contemplates production near contract maximums. Without the passage of House Bill 706, production will likely stagnate and the unrealized severance and royalty income will far outweigh any "fiscal impact."

Secondly, the final paragraph of the fiscal note speaks of a possible 20% reduction in royalty payments. Because the fiscal note incorrectly assumes that federal percentage royalties do not apply against themselves, this conclusion is inaccurate. The July 30, 1982 Federal Register clearly specifies that the federal and Indian percentage royalties apply to all components of the price, including the royalties paid. The per ton reduction in royalty that could be expected, then, would be between 5-7%. One must be cautious, however, when estimating the reduction in royalty income because the anticipated production will likely not occur if House Bill 706 is not enacted.

March 8, 1933

MR. **SPEAKER:**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **706**

Second reading copy (**Yellow** color) **With House Committee of the Whole Amendments, March 4, 1933,**

A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING CERTAIN ROYALTIES FROM THE DEFINITION OF CONTRACT SALES PRICE OF COAL; AMENDING SECTION 15-35-102, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **706**

be amended as follows:

(See attached sheets)

XXXXXX
DO PASS

STATE PUB. CO.
Helena, Mont.

DAN YARDLEY, Chairman.

COMMITTEE SECRETARY

March 8, 1983

1. Page 1, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 1, line 19.

Following: "CALCULATED"

Insert: ". However,"

3. Page 1, line 19 and line 20.

Following: "TO"

Strike: line 19 through "ROYALTIES:" on line 20

Insert: "royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe,"

4. Page 1, line 21 and line 22.

Following: "(A)" on line 21

Strike: line 21 through "1985" on line 22

Insert: "for quarterly periods ending on and after September 30, 1984"

5. Page 1, line 23.

Following: "SUCH"

Insert: "federal, state, and tribal government"

6. Page 1, line 25 through Page 2, line 1.

Following: "(B)" on line 25

Strike: line 25 through "1986" on Page 2, line 1

Insert: "for quarterly periods ending on and after September 30, 1985"

7. Page 2, line 2.

Following: "SUCH"

Insert: "federal, state, and tribal government"

8. Page 2, line 4 and line 5.

Following: "(C)" on line 4

Strike: line 4 through "1987" on line 5

Insert: "for quarterly periods ending on and after September 30, 1986"

9. Page 2, line 6.

Following: "SUCH"

Insert: "federal, state, and tribal government"

March 3,

19 63

10. Page 2, line 3.

Following: "(D)"

Strike: line 3 through "THEREAFTER"

Insert: "for quarterly periods ending on and after
September 30, 1967"

11. Page 3, line 4.

Following: "92-4-203."

Insert: "Section 2. Effective date. This act is effective
July 1, 1964."

12. Strike: House Committee of the Whole Amendments,
March 4, 1963, numbers one and two.

AND AS AMENDED
DO PASS

20

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 21, 1983

The fiftieth meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator McCallum.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 706: Representative Tom Asay, House District 50, sponsored the bill. HB 706 would remove federal, state and Indian royalties greater than 15 cents per ton from the sale price of coal. We are in coals now where a royalty is stated in a percentage of the selling price figure. The way of figuring is being changed--the royalty will be moving from 15-20 cents to \$1.00-\$1.50 a ton. They want to keep it at a flat rate. Over a period of three years, we reduce this percentage increase to where we will have a flat rate of 15 cents per ton. We need to realize what impact this new way of calculation has on the marketability of coal. We need to do this in order to maintain a marketable situation. This will stimulate future production of coal. We have had a reduction in coal sales which has had a big effect on income to the state of Montana.

PROPOSERS

Martin White, president of Western Energy Company, submitted written testimony, attached as Exhibit A.

Jim Mockler, representing the Montana Coal Council, said the Coal Council projections are down by several million tons. We want our people back at work. Passage of this bill will encourage people to come back and take coal again.

Gary Langley, executive director of the Montana Mining Association, said mining, like agriculture, is a basic industry to Montana. State tax policy will determine the future of the mining industry in Montana. If we have a favorable tax climate, the result is more jobs in Montana. He urged the committee to pass HB 706.

Dave Lewis, Office of Budget and Program Planning, submitted written testimony, attached as Exhibit B.

Tom Ebzery, representing NERCO, Inc., the mining and resource development subsidiary of Pacific Power and Light, submitted written testimony, attached as Exhibit C.

Tom Staples, representing the Montana International Trade Commission, supported HB 706.

Larry Persinger, Montana State Building Construction Trades Council, supported HB 706 also.

OPPONENTS

There were no opponents to HB 706.

Questions from the committee were called for. There were no questions.

Senator Lynch moved that HB 706 BE CONCURRED IN. The motion was seconded and passed, with Senator Norman voting no. Senator Lynch will carry the bill on the floor.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 126: Senator Crippen said the subcommittee decided that, rather than risk loss of the bill because of the 5%, they would just as soon strike subsection (ii) (page 2, lines 17-21) in its entirety.

Senator Crippen moved that (ii) on page 2 (lines 17-21) be stricken from the bill. The motion was seconded.

Senator Eck wondered if subsection (ii) was out, what about (2) on page 3? She said she would rather see the 3% stricken (page 2, lines 1-6) and the 5% on page 2, line 19 changed to 3%. We should make sure what funds we are referring to.

Senator Crippen said the 3% is for improvements; the 5% goes into the revolving fund. He has heard reports on how Billings takes money for SIDs and uses it for streets in other parts of town. The 3% is to be used up in the improvement process whereas the 5% in the second section of the bill is to assure that the taxpayers in the county don't end up paying for delinquent SIDs. If we take out the 5% on page 2, lines 17-21, we also have to take out the extra language in subsection (2) on page 3. We have to talk about "annual" assessments. Strike subsection (2) on page 3 entirely.

Senator Turnage thought subsection (2) on page 3 should be left in in the case of a surplus after the bonds are paid.

Senator Eck felt that if the county general fund has to pay for delinquencies, there is something wrong.

Senator Turnage stated that an SID is a general obligation of the entire governing body. Make the county commissioners and the people aware that when SIDs are approved, they are contingent liabilities of everyone in the county. In the past, they didn't know about bonding statutes. He wanted this addressed in the bill so people know what they are doing.

Senator Norman asked what the cities do with the 3%. They have a 5% start-up cost in the revolving fund. Senator Crippen responded that it is in addition to the 5%.

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/21 /83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN		✓	
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

DATE: March 21, 1933

COMMITTEE ON TAMMION

VISITORS' REGISTER

NAME (Last, First, Middle)	REPRESENTING	BILL #	Check One	
			Support	Oppose
MARTIN A. WHITE	WESTERN ENERGY CO.	HB 706	✓	
BILL ROBINSON	WESTERN ENERGY CO	HB 706	✓	
Kenneth Williams	Western Energy Co.	HB-706	✓	
Tom Ebzery	NERCO Inc	HB 706	✓	
Dane Lewis	OR PP	HB 706	✓	
Jim Mockler	MT. Coal Council	"	✓	
GARY LARGIER	MT. MINING ASSN	HB 706	✓	
Hal Branson	MERCURY	HB 706	✓	
Larry McInerney	Montana State Building Trades	HB 706	✓	
Tom Buchanan	Montana Iron & Steel	HB-706	✓	
Tom Staoles	MT Int'l Trade Commission	HB 706	✓	

SENATE TAXATION COMMITTEE

EXHIBIT AMarch 21, 1983House BILL/RES. 706

ISSUE PAPER

MONTANA SEVERANCE TAX & COAL ROYALTY INTERACTION

WESTERN ENERGY COMPANY

Revenues

Montana faces a serious threat to its Coal Tax Revenue due to the declining production rate of Montana coal compared to Wyoming coal.

Wyoming's coal has many advantages. Their taxing picture and the method used to calculate their taxes is better than Montana's. Their coal occurs in seams thicker than those in Montana. The environmentally acceptable quality of their coal is generally better than Montana's. More rail freight competition out of Wyoming causes lower freight rates and they are closer to most markets. These advantages are contributing to greater levels of production in Wyoming.

In 1971, Montana produced 7.3 million tons of coal and Wyoming produced 8.0 million. In 1980, Montana produced 30.0 million tons and Wyoming produced 94 million tons. In 1982, Montana produced 27.8 million tons and Wyoming produced 106 million tons. Based on available projections, by 1987, Montana's production will be 40.6 million tons versus Wyoming's 153 million tons.

Montana can help the coal industry and benefit the State by changing the method used to calculate the Coal Severance Tax to eliminate the royalty from the calculation.

When the 1975 Montana Legislature passed a 30 percent severance tax, royalties paid on coal generally ranged from 15 to 20 cents per ton. At that time, the Severance Tax, Royalties and Production Taxes did not interact mathematically to inflate the price. In 1976, however, the Federal Coal Lease Amendments Act of

1976 changed the fundamental structure of coal royalties in the West by providing that no surface mined coal would be leased for less than 12½ percent royalty paid on the gross value of the coal.

The example on the following page compares the price of coal using a flat fee royalty as it was in 1975 when the Severance Tax was passed and the price using a 12½ percent royalty as mandated by the 1976 Leasing Amendments Act. Also, it compares the price of coal as calculated using the new formula as prescribed by the proposed legislation.

The problem is created by the fact that the Severance Tax is levered up because it applies to the Federal Royalty costs on a percentage basis, while the percentage royalty applies to all elements of the price including severance taxes. This was not the case prior to the Federal Government passing a percentage royalty rather than a flat fee royalty rate. Wyoming, in contrast, allows a deduction for Federal, State, and Indian Royalties to ensure that an artificial price increase does not occur. The most serious implication for Montana will be the continuing loss of market share to Wyoming coal producers. The loss of market share can occur in at least two ways:

- (1) Reduce the coal taken under existing contracts to the contract minimum.

Most of the coal in Montana is produced under long-term contracts which typically contain a maximum and minimum tonnage provision. For instance, our contract with Northern States Power Company has a maximum of 5.5 million tons and a minimum of 2.5 million. Northern States Power can drop to the contract minimum of 2.5 million tons with no more than 30 days notice. All of our contracts have similar maximum and minimum provisions. Conceivably, Western Energy Company's production could be reduced by 8 million tons on an annual basis because of the difference between our present projected production level and the contract minimums.

<u>PRICE ELEMENTS</u>	<u>FLAT FEE ROYALTY \$.15/TON</u>	<u>EXISTING METHOD 12½% ROYALTY</u>	<u>PROPOSED METHOD 12½% ROYALTY</u>
Operating Cost and Profit	\$6.32	\$ 6.32	\$ 6.32
Royalty	.15	1.40	1.34
Contract Sale Price	\$6.47	7.72	7.66
State Prod. Taxes (1)*	2.28	2.71 ³	2.28
Fed. Reclamation Fee	.35	.35	.35
Subtotal	\$9.10	\$10.78	\$10.29
Black Lung @ 4%	.36	.43	.41
TOTAL PRICE	\$9.46	\$11.21	\$10.70

*(1) Assumes Montana Production Taxes:

Severance @	30.00%
Gross Proceeds @	4.62%
Resource Indemnity Trust Tax @	.50%
TOTAL	35.12%

371442

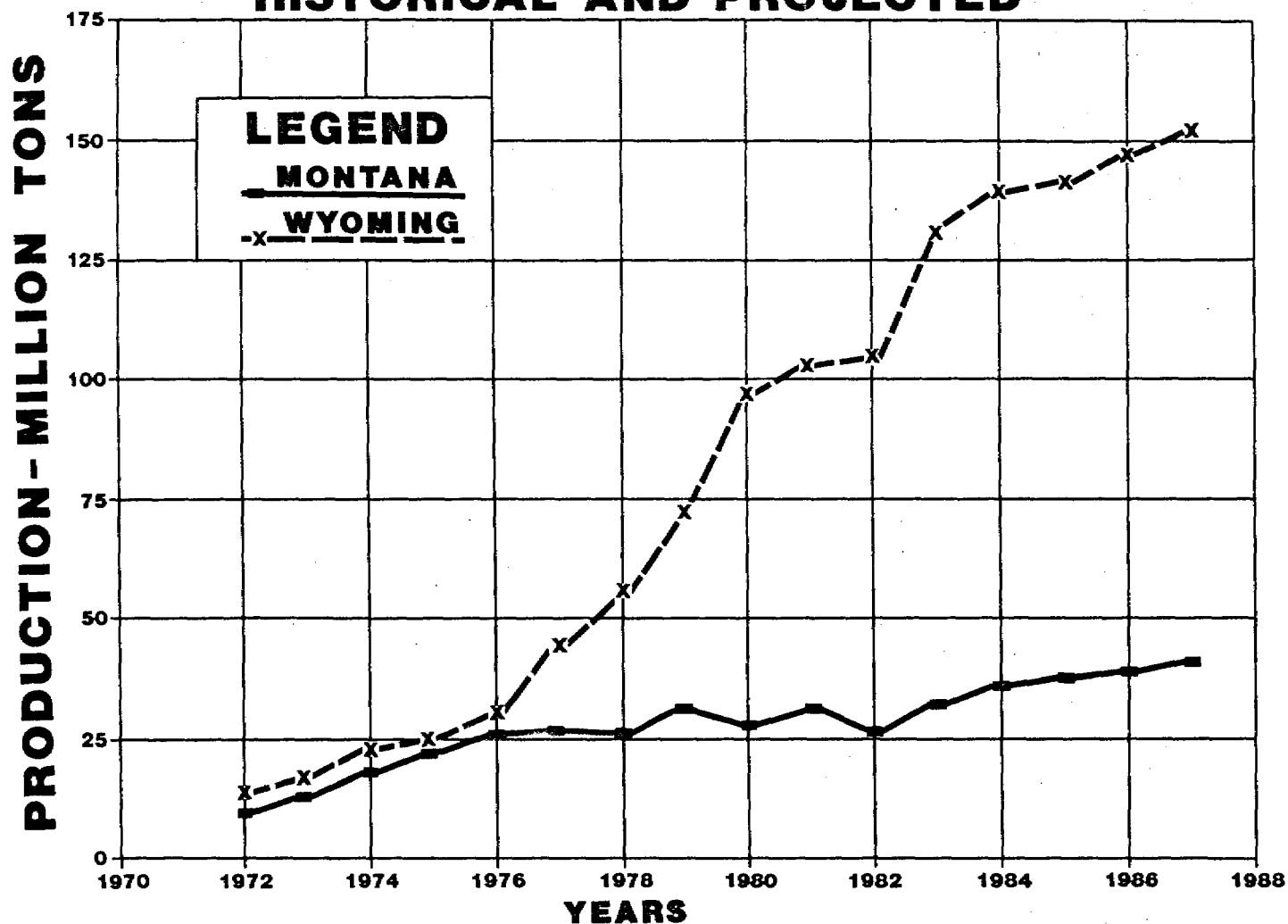
(2) Do not enter into new contracts with Montana producers.

To our knowledge, there have been no new major long-term contracts for Montana coal signed since 1975.

Jobs

Earlier this month when Anaconda Company announced the closing of the Butte pit and the fact that there would be 700 people laid off, every newspaper in the State carried the article. Since 1979, Montana has lost 360 primary jobs in the coal fields and using a standard multiplier of 3 to 1 for secondary jobs, another 1,080 jobs have been lost in support businesses. There has been no outcry about these jobs. The jobs lost to date are just the beginning. The following charts and graphs explain the impact of the proposed change.

MT WY COAL PRODUCTION HISTORICAL AND PROJECTED

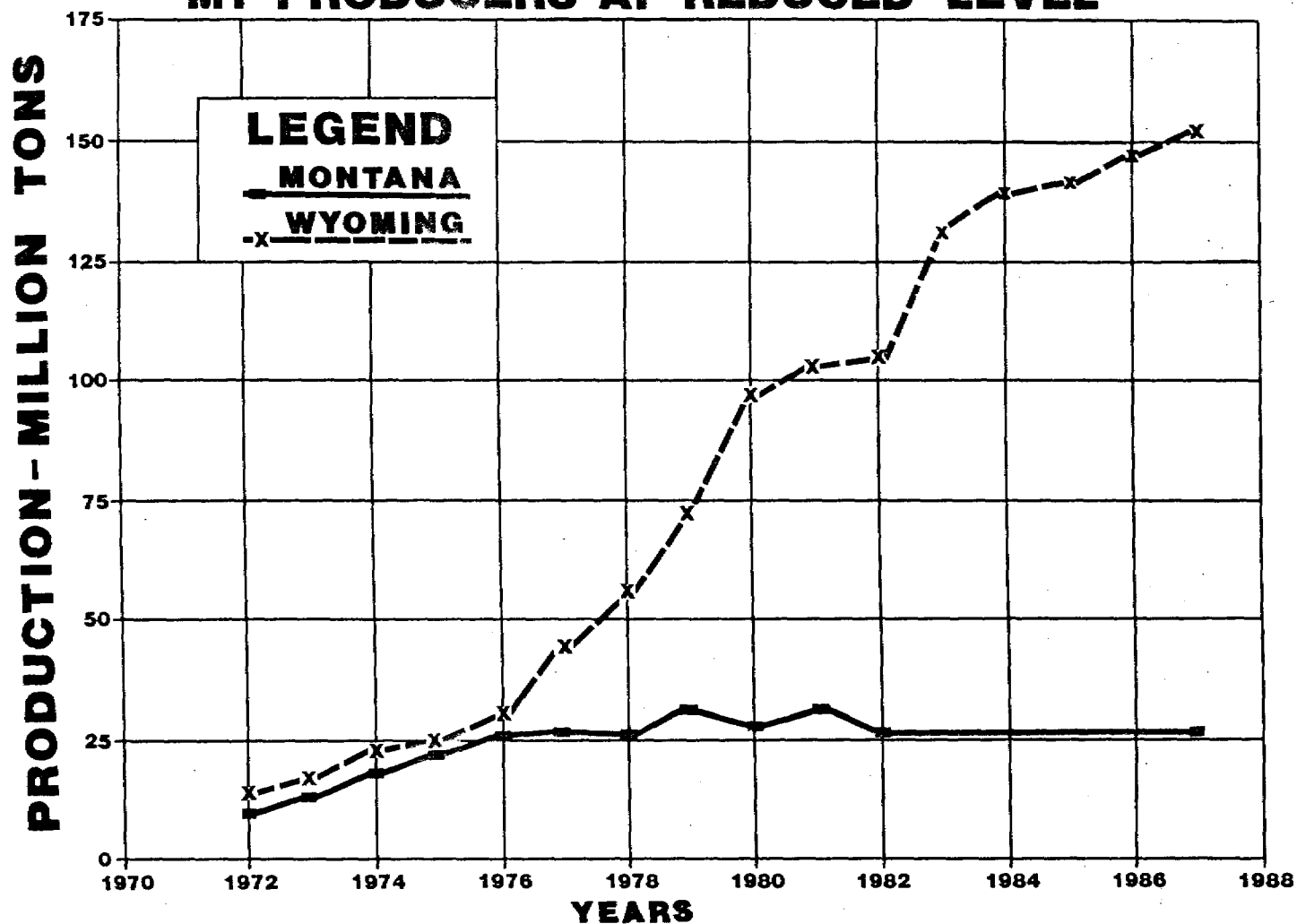


(1) Wyoming Production estimated by Wyoming Geological Survey

(2) Montana Production from producer estimates supplied to the Montana Coal Council

MT WY COAL PRODUCTION

MT PRODUCERS AT REDUCED LEVEL

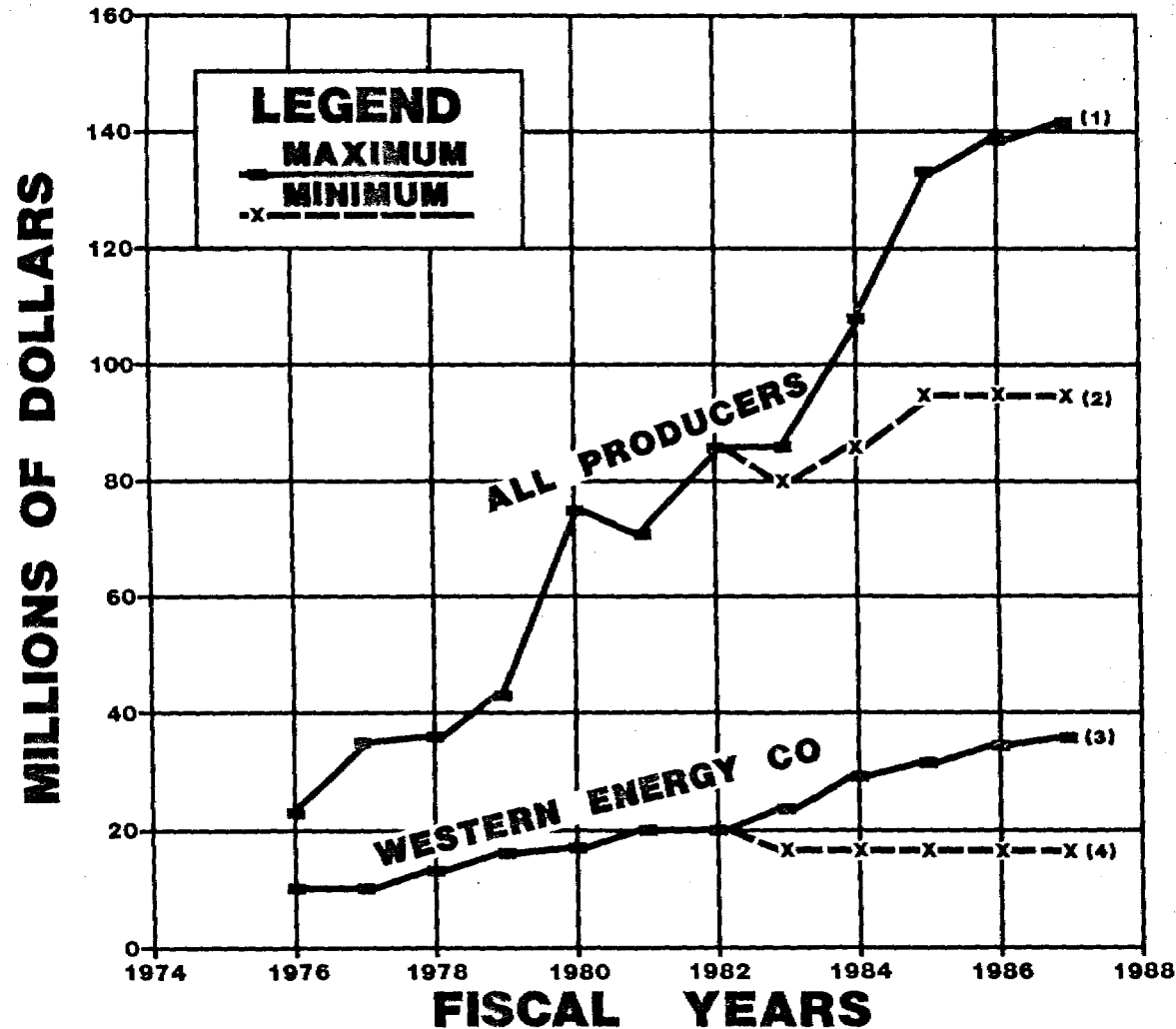


Wyoming production estimated by Wyoming Geological Survey

Western Energy forced to contract minimums - other Montana Producers at 82 level

CHART

COAL SEVERANCE TAX REVENUES



(1) Budget Office estimates FY83,84,85 / FY86,87 projected at FY85 rates.

(2) Assumes Western forced to minimums and other producers at 82 levels, severance tax collections uses average severance tax, Budget estimates.

(3) Assumes Western at projected production levels.

(4) Assumes Western at Minimum Levels.

CHART 3

MONTANA COAL PRODUCERS

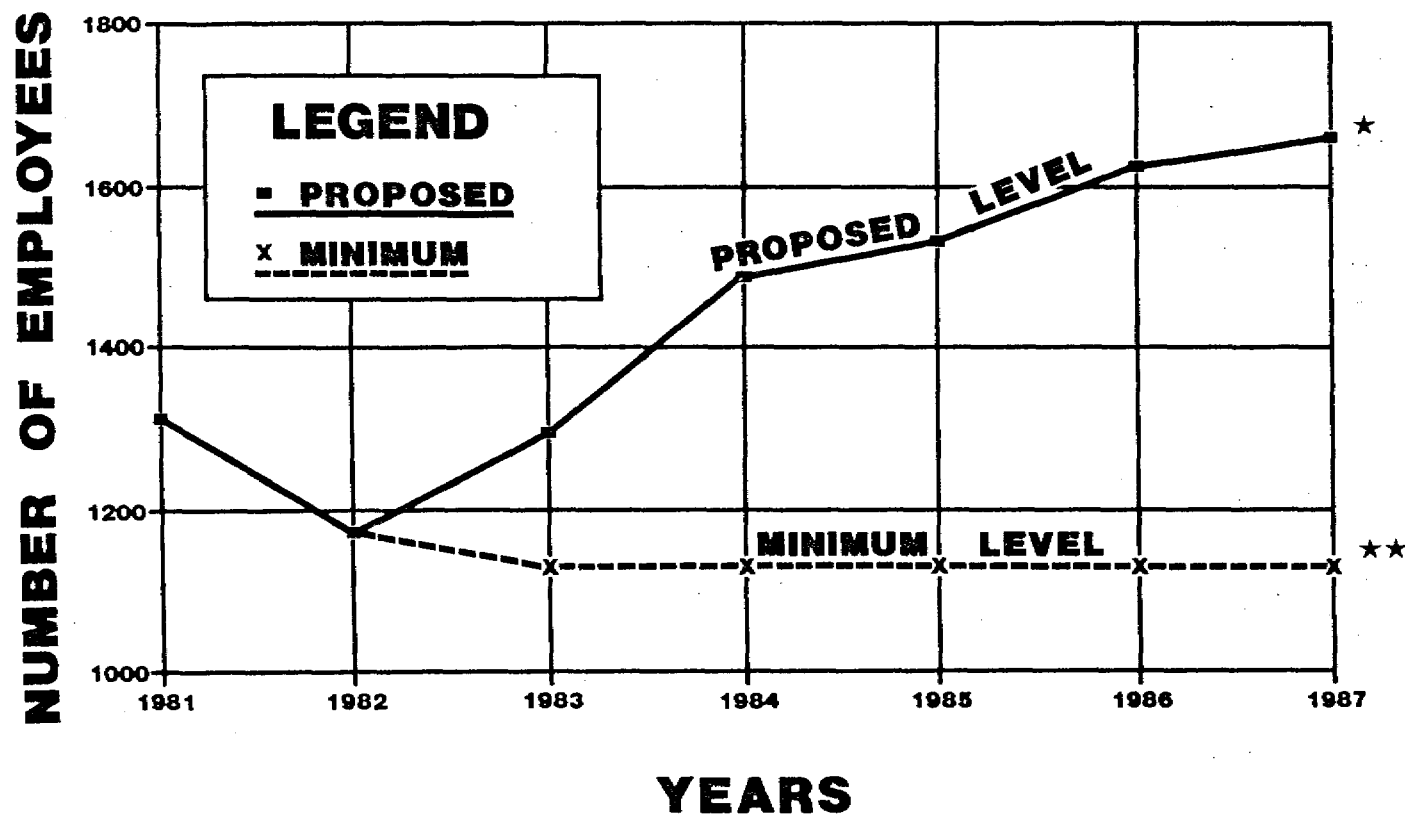
Projected and actual receipts from Federal Royalties:

	<u>1982</u>	<u>1983</u>	<u>1984</u>
Peabody	\$ 575,000	\$ 630,000	\$ 630,000
Nerco	400,000	861,000	861,000
Western Energy	7,700,000	5,953,000	6,905,000
Decker	918,227	1,881,677	11,629,761
Knife River	<u>200,000</u>	<u>200,000</u>	<u>200,000</u>
Total	\$9,793,227	\$9,525,667	\$20,225,761
State's Share of Federal Royalty	\$4,896,613	\$4,762,833	\$10,112,880

Projected and actual receipts from State Royalties:

	<u>1982</u>	<u>1983</u>	<u>1984</u>
Peabody	\$ 0	\$ 0	\$ 0
Nerco	0	0	0
Western Energy	0	0	360,000
Decker	49,631	623,000	5,500,000
Knife River	0	0	0
Westmoreland	<u>41,261</u>	<u>145,250</u>	<u>145,250</u>
State Royalties	\$ 90,892	\$ 768,250	\$ 6,005,250
Total State & Fed. Royalties	\$4,987,505	\$5,531,083	\$16,118,130

MT COAL MINE EMPLOYMENT

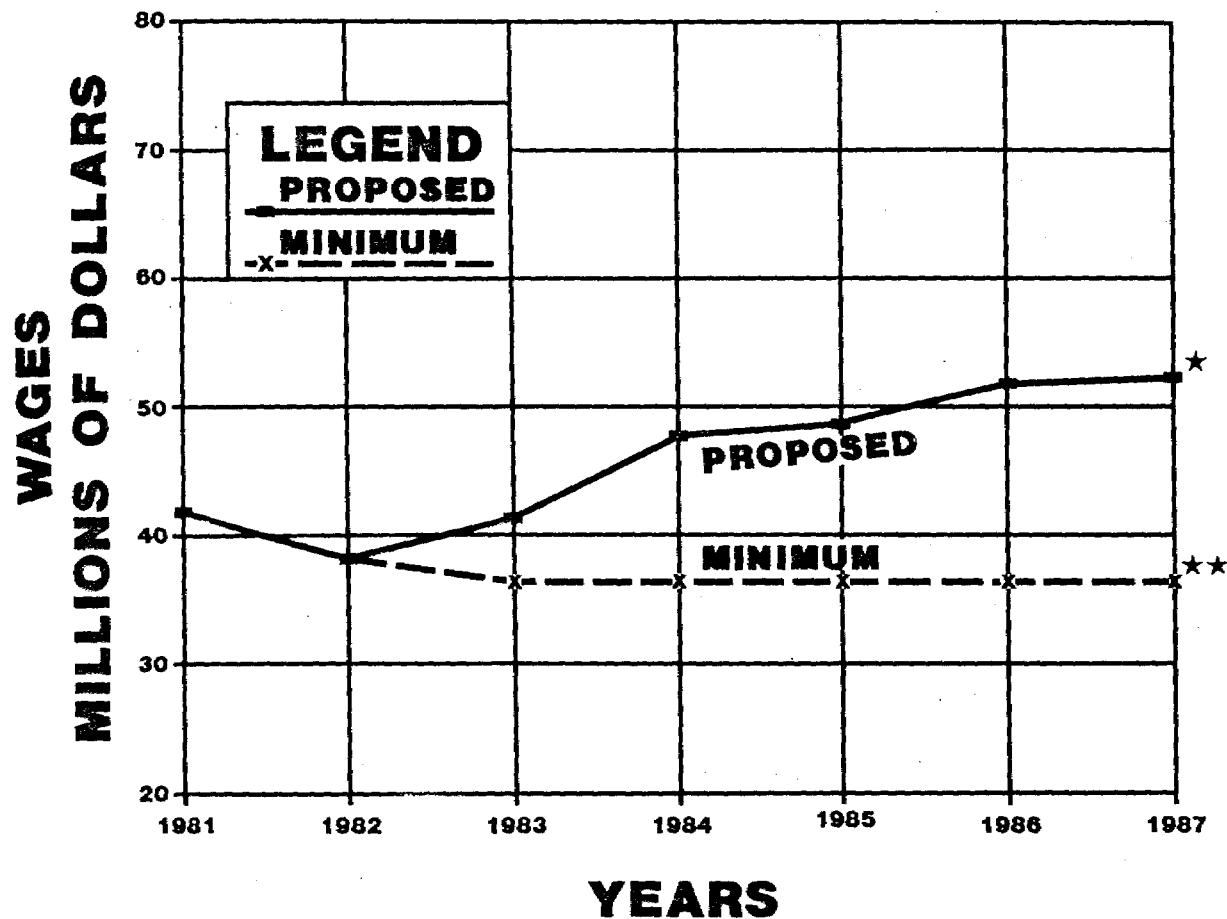


★ 1981 and 1982 actual employment 1983-1987 projected at 24,460 tons/man/year against producers production estimates

★★ 1983-1987 at 27.5 million tons/year - WECO forced to minimum and other producers at 1982 level

CHART 4

PROJECTED COAL MINE WAGES



★ 1981 figure from Mt. Coal Council 1982 - 1987 assumes \$32,000/year/worker X anticipated employment.

★★ 1983 - 1987 assumes Western forced to minimums other producers at 82 level number of workers X \$32,000.

CHART 5

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

EXHIBIT B

March 21, 1983

House BILL/RES. 706

CAPITOL BUILDING



TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

(406) 449-3616

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL 706

House Bill 706, as amended, phases out the State Coal Severance Tax on future increases in royalties paid to the governments of the United States, Montana, or a federally recognized Indian Tribe. This will make our treatment of these royalties, for severance tax purposes, the same as in Wyoming.

The Governor was approached by the coal industry and asked to support the bill in its original form. Given our current fiscal condition he felt that the original bill was "too much too soon". However, the amended bill will have a limited impact on the General Fund in 1984 and 1985 and is acceptable. The administration does feel that the tax increase which would take place if this amended bill were not approved would be the wrong signal to the industry. We want to maintain our competitive relationship with Wyoming Coal and increase Montana employment in the coal industry.

Eliminating the state severance tax on Federal Royalties, or a tax on a tax, is a positive signal to Congress that we are willing to be reasonable with our coal tax. There has been interest in Congress in reducing the amount of Federal Royalties returned to the state to 35% rather than the current 50%. One reason for this is that state taxes on Federal Royalties will increase when these royalties are increased.

Future Legislatures will be able to evaluate this tax change to determine if it has helped to maintain and increase Montana production.

I want to stress that the effect of the amended House Bill 706 is to phase out a state tax increase that would occur when Federal Royalties are increased. At the end of the phase out period our tax would be exactly at the current level. There will be no decrease from current tax levels.

SENATE TAXATION COMMITTEE	
EXHIBIT	<u>C</u>
<u>March 21, 1983</u>	
<u>House</u>	BILL/RES <u>706</u>

NERCO TESTIMONY ON HB 706

BEFORE THE

MONTANA SENATE COMMITTEE ON TAXATION

March 21, 1983

Introduction

Mr. Chairman, for the record, I am Tom Ebzery, an attorney from Billings, representing NERCO, Inc. I have been asked by my principal to make the following statement on behalf of Gerard K. Drummond, President of NERCO, Inc.

NERCO, Inc. is the mining and resource development subsidiary of Pacific Power and Light Company. NERCO is the owner and operator of Spring Creek Coal Company and fifty percent owner of the Decker Coal Mine located in Big Horn County.

Purpose

I am here today to express NERCO's support for HB 706 which permits a deduction of royalties when calculating State coal taxes. This legislation would provide relief for utility customers in Montana and other states. In addition, HB 706 would do much to help Montana coal producers in today's soft, competitive market.

Impacts of Royalty Adjustments

Significant increases in the price of Montana coal will result from upcoming adjustments in royalties paid to Federal, State, and Indian governments. For example, NERCO's Spring Creek Mine currently pays a federal royalty of 20¢ per ton. Effective in 1985, that royalty will jump to 12.5% of the value of the coal.

Severance taxes are paid on the value of coal, which, under the current law, includes the cost of royalties. Because long-term coal contracts are generally structured to pass through these costs, utility customers in Montana and other states bear the burden of these increases in the form of higher fuel prices. Therefore, increases in royalties also result in higher severance tax payments.

The inability to deduct royalties would create new problems for the marketing of Montana coal as well. The current market for coal is already depressed at home and abroad. In addition, several other factors uniquely affect the market for Montana and other Powder River Basin coal.

First, the market advantage of low-sulfur "compliance coal" was virtually eliminated by amendments to the Clean Air Act in 1977 requiring all new coal-fired plants to use scrubbers. This enhanced the market for high-sulfur coal located closer to major consuming areas.

Second, escalating rail rates have turned the remote location of Powder River Basin coal, one thousand miles from major markets, into a great disadvantage. Anywhere from two-thirds to three-fourths of the total delivered cost of the product is attributable to transportation.

Finally, diligent development requirements imposed upon existing leases have promoted increased supply even though demand has lagged, placing downward pressure on price.

Benefits of HB 706

We believe that HB 706 would provide reasonable relief for Montana fuel customers, enhance the marketability of Montana coal, and generate benefits for the State of Montana.

Easing the burden of royalty increases on coal consumers will help Montana coal producers to renew existing contracts. This would preserve existing jobs and revenues.

Also, this deduction will help Montana coal producers maintain a competitive posture in the marketplace. It will help open the door to new markets which would create new jobs for Montanans and increase revenues for the State.

Finally HB 706 ensures that a portion of royalties will always be subject to State coal taxes. As the fiscal note prepared by the Office of Budget and Program Planning indicates, the fiscal impact of HB 706 in the current and following biennia appears reasonable.

We support this proposal and stand prepared to work with the legislature and State government to protect and improve the marketability of Montana coal.

STANDING COMMITTEE REPORT

March 21 19 83

MR. PRESIDENT

We, your committee on taxation

having had under consideration House Bill No. 706

Asay (Lynch)

Respectfully report as follows: That House Bill No. 706

third reading copy

BE CONCURRED IN

DORASSX